

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

MARCEL EUGENE THOMAS,

Plaintiff,

v.

PERRY RUSSELL,

Defendant.

Case No. 3:20-cv-00678-MMD-CLB

ORDER

This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 by a former state inmate. On September 7, 2021, the Court issued an order directing Plaintiff Marcel Thomas to file his updated address with the Court by September 24, 2021. (ECF No. 10.) The deadline has now expired, and Thomas has not filed his updated address or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of L.A.*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. United States Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with local rules).

1 In determining whether to dismiss an action for lack of prosecution, failure to obey
2 a court order, or failure to comply with local rules, the Court must consider several factors:
3 (1) the public's interest in expeditious resolution of litigation; (2) the Court's need to
4 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
5 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
6 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at
7 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

8 Here, the Court finds that the first two factors, the public's interest in expeditiously
9 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
10 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
11 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
12 in filing a pleading ordered by the Court or prosecuting an action. See *Anderson v. Air*
13 *W.*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring disposition
14 of cases on their merits—is greatly outweighed by the factors in favor of dismissal
15 discussed herein. Finally, a court's warning to a party that his or her failure to obey the
16 court's order will result in dismissal satisfies the "consideration of alternatives"
17 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d
18 at 1424. The Court's order requiring Thomas to file his updated address with the Court by
19 September 24, 2021, expressly stated: "It is further ordered that, if [Thomas] fails to timely
20 comply with this order, this case will be subject to dismissal without prejudice." (ECF No.
21 10 at 2.) Thus, Thomas had adequate warning that dismissal would result from his
22 noncompliance with the Court's order to file his updated address by September 24, 2021.

23 It is therefore ordered that this action is dismissed without prejudice based on
24 Thomas's failure to file an updated address in compliance with the Court's September 24,
25 2021 order.

26 The Clerk of Court is directed to enter judgment accordingly and close this case.

27 DATED THIS 30th Day of September 2021.

28 
MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE